

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN FRANCIS LECHNER,

Plaintiff,

CASE NO. 2:17-CV-108

v.

HON. ROBERT J. JONKER

TIMOTHY DeCLAIRE, *et al.*,

Defendants.

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Greeley’s Report and Recommendation in this matter (ECF No. 5) and Plaintiff’s Objection (ECF No. 9). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the

Report and Recommendation itself; and Plaintiff's objections. After its review, the Court finds that Magistrate Judge Greeley's Report and Recommendation is factually sound and legally correct.

The Magistrate Judge carefully and thoroughly considered the case record and the governing law. The Magistrate Judge properly found that Plaintiff failed to state a claim on which relief may be granted. Plaintiff's objections fail to deal with the Report and Recommendation in a meaningful way. Nothing in Plaintiff's objections changes the fundamental analysis. The Court agrees with the Magistrate Judge's conclusion that the complaint must be dismissed, for the very reasons the Report and Recommendation delineates.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 5) is approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's complaint is **DISMISSED** under 28 U.S.C. § 1915(e)(2) for failure to state a claim on which relief may be granted.

IT IS FURTHER ORDERED that for the same reasons that the Court dismisses the action, the Court discerns no good-faith basis for an appeal within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997).

This case is **DISMISSED**.

Date: August 21, 2017

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE